

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 6, 1997

DIVISION ONE

[illegible]

The judgment is affirmed and the matter is remanded for resentencing in accordance with the views expressed in this opinion.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

B088772 People (Not for Publication)
v.
Smith

The judgment is affirmed and the matter is remanded for resentencing with directions that the trial court set forth its reasons for dismissing Smith's prior strike conviction in accordance with the procedure set forth in *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 531-532.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

B089283 People (Not for Publication)
v.
Murray, Sr.

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION TWO

B105856 People v. Williams (Not for Publication)

The judgment of conviction is affirmed. The matter is remanded for resentencing in accordance with this opinion.

Zebrowski, J.

We concur: Fukuto, Acting P.J.
 Nott, J.

B108041 People (Not for Publication)
v.
York

The judgment is affirmed. The abstract of judgment is ordered corrected to reflect the trial court's \$5,000 restitution order.

Zebrowski, J.

We concur: Boren, P.J.
 Fukuto, J.

B106038 People v. Servera (Not for Publication)

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

DIVISION TWO (Continued)

B098465 Brutoco Development Company (Not for Publication)

v.
City of West Covina

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Ito, J. (Assigned)

B101234 Carter (Not for Publication)

v.
Fair, et al.

The judgment is affirmed.

Zebrowski, J.

We concur: Fukuto, Acting P.J.
 Nott, J.

B104511 Lowe (Not for Publication)

v.
City of Commerce

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO (Continued)

B108036 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Jennifer R.

The orders appealed by Father are affirmed. The jurisdiction and dispositional orders as to Mother are reversed, with the matter to be remanded to the juvenile court.

Zebrowski, J.

We concur: Boren, P.J.
 Fukuto, J.

DIVISION THREE

B106864 People (Not for Publication)
 v.
 Furcron

The judgment is modified by striking the finding Furcron suffered a prior serious or violent felony conviction of assault with a deadly weapon in 1998, and as so modified, affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION THREE (Continued)

The judgment is reversed and the cause remanded to the superior court with directions to vacate Alatorre's plea of no contest and admission of the prior conviction and prior prison term enhancements if Alatorre makes an appropriate motion within 30 days of the finality of this opinion. In that event, the superior court should reinstate the charges contained in the amended information, if the prosecution so moves, and proceed to trial or other appropriate disposition. If no such motion to vacate the no contest plea and admissions is filed by Alatorre, or if Alatorre waives the right to so move, the trial court is directed to reinstate the original judgment.

We concur: Aldrich, J.
Aranda, J. (Assigned)

The June 29, 1995 order of dismissal, and all subsequent orders specified in the notices of appeal, are affirmed. The Mestchyans to recover costs on appeal.

We concur: Croskey, J.
 Kitching, J.

DIVISION THREE (Continued)

B103916 Suzanne M. Curtis (Not for Publication)

v.

Department of Transportation, City of Los Angeles

The order of dismissal/judgment is affirmed. The City to recover costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B115054 Karie G. (Not for Publication)

v.

Superior Court, Los Angeles County

(Los Angeles County Department of Children & Family Services, r.p.i.)

The Court:

The petition is denied.

Klein, P.J., Croskey, J., Aldrich, J.

B110160 Jerry Bautista (Not for Publication)

v.

Workers' Compensation Appeals Board

The decision of the Board is "annulled and this case is remanded for proceedings consistent with the views expressed herein." (Parks v. Workers' Comp. Appeals Bd., supra, 33 Cal.3d at p. 593.)

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION FOUR

B108764 Dept. of Children & Family Services (Certified for Publication)
v.
Roy L.

The order is reversed, and the case is remanded for further proceedings consistent with this opinion.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Baron, J.

B108983 Ruvalcaba (Not for Publication)
v.
Pollak

The judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
Baron, J.

B108521 Mills (Not for Publication)
v.
Darden

The judgment (order of dismissal) is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Baron, J.

DIVISION FOUR (Continued)

B094576 Anro Construction Company (Not for Publication)
 v.
 City of Bell Gardens

The judgment is affirmed. Respondent City to have its costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
 Baron, J.

B086587 Killingsworth (Not for Publication)
 v.
 Taxpayers Against Fraud

The judgment is affirmed as to TAF but reversed as to Phillips. The matter is remanded to the trial court with directions to enter an order granting summary adjudication in favor of Phillips on the first cause of action only and for further proceedings. We award costs to TAF and the portion of plaintiff's costs incurred in appealing the judgment for Phillips.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Baron, J.

B108415 People (Not for Publication)
 v.
 Finney

The Court:

For the foregoing reasons, the judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Baron, J.

DIVISION FIVE

B112481 City of Burbank (Not for Publication)

v.
Superior Court, Los Angeles County
(Janet Hubert et al., r.p.i.)

Petition for writ of mandate is granted. Let a peremptory writ issue directing respondent court to vacate its order of May 16, 1997, overruling defendants' demurrer to plaintiffs' complaint, and enter a new and different order sustaining the demurrer without leave to amend. Petitioners are to recover their costs in this proceeding.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

B105248 Brenda J. Tazza (Not for Publication)

v.
Philip R. Tazza

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
 Jackson, J. (Assigned)

B106147 People (Not for Publication)

v.
Eddie Lee Pitts

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

November 6, 1997-Continued

DIVISION FIVE (Continued)

B104818 People (Not for Publication)

V.

Thomas J. Bright

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.

Grignon, J.

B109769 People (Not for Publication)

V.

Richard McGowen

The judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.

Jackson, J. (Assigned)

B110461 People (Not for Publication)

V.

Terry E. Bullock

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.

Armstrong, J.

November 6, 1997-Continued

DIVISION FIVE (Continued)

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The judgment is reversed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B108301 People (Not for Publication)
v.
James W. Richardson

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B107697 People (Not for Publication)
v.
Agustin Rodriguez

The judgment is modified to reflect presentence credit of 541 days, 361 actual, and 180 conduct. As modified, the judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B108982 Los Angeles County, D.C.S. (Not for Publication)
 v.
 James P.

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B106713 People (Not for Publication)
 v.
 Eric Eugene Smith

The true findings as to two of the four prior prison term allegations are reversed and the matter is remanded for resentencing as to the remaining two prior prison term enhancements. In all other respects, the judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Jackson, J. (Assigned)

B103021 People (Not for Publication)
 v.
 Roy Rios Alvarez

The judgment is modified as follows: Appellant's sentence on count 5 is to run consecutive to his base-term sentence on count 4. The sentence on count 5 is for one year, calculated as one-third of the three-year middle term for second degree robbery. Appellant is also sentenced to an additional, consecutive five-year term under section 667, subdivision (a) (1). The abstract of judgment is ordered modified accordingly. The judgment as modified is affirmed.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
 Armstrong, J.

November 6, 1997-Continued

DIVISION FIVE (Continued)

B106556 People (Not for Publication)

V.
Ernesto Higuera

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B098531 Braille Institute of America, Inc. et al. (Not for Publication)

v.
Norman J. Essig et al. as Trustees, etc.

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

B106547 People
v.
Kevin Galloway

Filed order denying petition for rehearing.

DIVISION SIX

B101824 Rafael Wegis (Not for Publication)

V.
Craig Smith & Associates

The judgment is affirmed. Costs are awarded to respondents.

Gilbert, J.

We concur: Stone, P.J.
Yegan, J.

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., Simpson, J. (Assigned), and Emma Jean Amos, Deputy Clerk.

Each of the following:

B099677 People v. Bruce
B099702 People v. Martinez & Padilla
B102704 People v. Banks
B102964 People v. Pedroza
B103356 People v. Lara
B103999 People v. Sistrunk & Cosby
B104303 People v. Allen
B104943 People v. Govind
B106551 People v. Cavanaugh
B106715 People v. Springer
B106716 People v. Cooper
B106744 People v. Smith
B107294 People v. Veneracion
B107915 People v. Miramontes
B108007 People v. Aguilar
B108047 People v. Andrade
B108425 People v. Hardi
B108618 People v. Thompson
B109040 People v. Zamudio
B109180 People v. Bell
B109738 People v. Octavio T.
B109900 People v. Thompson
B110115 People v. De La Torre
B110803 People v. Laurelle B.
B112265 People v. Kasra T.
B114413 Keith M. v. D.C.F.S.
B115260 Angela M. v. D.C.F.S.
B103407 People v. Velasquez
B106683 Old Republic Surety Co. v. Quatchon
B109370 Dept. of Children's & Family Services v. Earcylyene B.

Argument waived, cause submitted.

DIVISION SEVEN (Continued)

B106903 People
 v.
 Varela

Merits:

Argued by Allen Weinberg for appellant and by David Eldridge, deputy attorney general for respondent. Cause submitted.

B104748 People
 v.
 Ramirez

Merits:

Argued by Richard A. Levy for appellant and by David Eldridge, deputy attorney general, for respondent. Cause submitted.

B105470 People
 v.
 Wilson

Merits:

Argued by Anita S. Brenner for appellant and by David C. Cook, deputy attorney general, for respondent. Cause submitted.

B105530 People
 v.
 Wilson

Merits:

Argued by Patrick Dunlevy for appellant and by April Sylvester, deputy attorney general, for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B097633 Bomel Construction Company

v.

Peck-Fager Corporation

Merits:

Argued by William Stewart for appellant and by Roy G. Weatherup for respondent. Cause submitted.

B114523 Digiacinto

v.

Ameriko-Omserv Corporation

Merits:

Argued by Herbert A. Moss for appellant and no appearance for respondent. Cause submitted.

B083215 Wills

v.

Tysch

Merits:

Argued by Frank A. Weiser for appellant and by Raymond Green for respondents. Cause submitted.

B109418 Agnew

v.

California State Board Equalization

Merits:

Argued by S. Jerome Mandel for appellant and by Felix Leatherwood, deputy attorney general, for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B114473 Brezae
 v.
 S.C.L.A.
 (Edelman, r.p.i.)

Merits:

Argued by Joseph Shalant for petitioner and by Lawrence A. Cox for real party in interest. Cause submitted.

B099281 Marshall
 v.
 Ralph Edwards Productions

Merits:

Argued by Neville Johnson for appellant and by Michael Koomer for respondent. Cause submitted.

B111342 Park Northridge Homeowners Assoc.
 v.
 S.C.L.A.
 (Truck Insurance Company, r.p.i.)

Appearances:

Brian Kabateck for petitioner and by Fred Bennett, deputy county counsel, for respondent and by David Axelrad for real party in interest. Argument waived, cause submitted.

Court recessed.

The Court reconvened at 2:00 P.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., Simpson, J. (Assigned), and Emma Jean Amos, Deputy Clerk.

DIVISION SEVEN (Continued)

B105566 Martin
 v.
 Bencangey

Merits:
Argued by Shelley Levine for respondent and no appearance for appellant.
Cause submitted.

B109011 Tile Trends
 v.
 Dale Poe Development

Merits:
Argued by Alan A. Carrico for appellant and by Timothy J. Hogan for
respondent. Cause submitted.

B106306 California Rifle & Pistol Association
 v.
 City of West Hollywood

Merits:
Argued by Don Kates for appellant and by Mitchell Abbott for respondent.
Cause submitted.

B096051 Athans
 v.
 Regents of the University of Calif.

Merits:
Argued by Paul Athans, in propria persona and by Eric Behrens for
respondent. Supplemental letter briefs requested by the court, submission
deferred until filing of the last brief.

DIVISION SEVEN (Continued)

B108883 Lockheed-Martin Corporation

v.

County of Los Angeles

Merits:

Argued by Albert Ramseyer, deputy county counsel, for appellant and by Robert Pool for respondent. Cause submitted.

B111011 Bradford

v.

Time Warner, Inc.

Merits:

Argued by O'Neil Bradford, in propria persona and by Carole Handler for respondent Atlantic Recording and by Robert Gutierrez for respondent Emi Entertainment. Cause submitted.

B094146 People

v.

Taylor & Atlas

Matter ordered off calendar.

B107027 People

v.

Morales

Matter continued to December 4, 1997, at 9:00 a.m.

B108077 Harwick

v.

Hoover Construction

Appearances:

Edward Horowitz for appellant and by Elaine Fresch for respondent.

Matter continued for 30 days awaiting filing of stipulation or opinion will be filed.

November 6, 1997-Continued

DIVISION SEVEN (Continued)

B100147 People
 v.
 King

Matter continued to December 4, 1997, at 9:00 a.m.

Court adjourned.

B105690 Nava
 v.
 Burbank Unified School District

Filed order denying petition for rehearing.